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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/030,974	05/13/2002	Andrea Heilemann	H 4172 PCT/US	4429

23657 7590 12/01/2004

COGNIS CORPORATION
PATENT DEPARTMENT
300 BROOKSIDE AVENUE
AMBLER, PA 19002

EXAMINER

KRISHNAN, GANAPATHY

ART UNIT	PAPER NUMBER
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1623

DATE MAILED: 12/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/030,974

Applicant(s)

HEILEMANN ET AL.

Examiner

Ganapathy Krishnan

Art Unit

1623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19-38 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 19-38 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

DETAILED ACTION

The amendment filed 9/17/2004 has been received, entered and carefully considered.

The following information provided in the amendment affects the instant application:

1. Claims 1-18 have been canceled.
2. Claims 19 and 31 have been amended.
3. Remarks drawn to rejections under obviousness-type double patenting, and 35 USC 102(b).

Claims 19-38 are pending in the case. The text of those sections of Title 35, U. S. Code not included in this action can be found in a prior Office action.

Double Patenting

The obviousness-type double patenting rejection of claims 19-23, 25-26 and 29-37 over claims 19-25 and 28-37 of copending application No. 10/030933 ('933 application) is being maintained for reasons of record.

Applicants argue that the claims of the copending '933 application were amended on February 10, 2004 and are now patentably distinct. Applicants further argue that the claims of the copending application are drawn to a polysaccharide biopolymer whereas the instant claims are drawn to chitosan.

This is not found to be persuasive. Chitosan is a polysaccharide biopolymer. Hence, the claims of the instant application overlap with those of the copending '933 application. Applicants must file a Terminal Disclaimer to overcome the rejection.

Claim Rejections - 35 USC § 102

Claims 19-23, 25-28, 32-35 and 37-38 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 01062303 ('302 patent) is maintained for reasons of record.

Applicants argue that the '302 patent teaches slow neutralization of the chitosan salt and is not directed to the production of entangled, three-dimensional, physically cross-linked chitosan product as instantly claimed and that the instant claims as amended are drawn to a process wherein the precipitant is added quickly so as to cause the entanglement and physical cross-linking.

This argument is not found to be persuasive.

The instant claims as amended do not recite addition of the precipitant quickly. They just recite at a rate sufficient to precipitate chitosan such that a crosslinker free chitosan composition having physically entangled strands are formed. The '302 patent teaches that in the neutralization step one may slowly add the aqueous solution of the base. The examples in the '302 patent do not specify a rate of addition of the base either. Hence the addition of the base in the examples and description of the '302 patent is seen as being done at a rate sufficient to precipitate the chitosan having physically entangled strands. Applicants have not shown the criticality of the said precipitation step as instantly claimed. The chitosan of the '302 patent is seen to produce physically entangled strands since the process steps in the '302 patent and those of the instant claims are identical. A declaration showing the difference in the chitosan instantly claimed and that of the '302 patent via a side-by-side comparison of the two chitosans might be more favorably considered.

Conclusion

Claims 19-38 are rejected

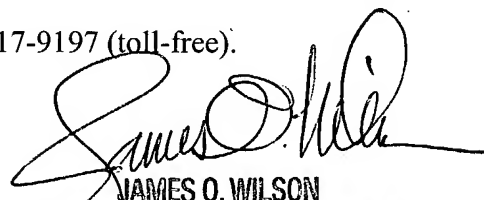
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ganapathy Krishnan whose telephone number is 571-272-0654. The examiner can normally be reached on 8.30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James O. Wilson can be reached on 571-272-0661. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

GK



JAMES O. WILSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600